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REPORT
OF THE
COMMISSIONERS
ON THE
WESTERN BOUNDARY LINE
BETWEEN
CONNECTICUT AND NEW YORK,
TO THE
GENERAL ASSEMBLY,
MAY SESSION, 1857.

Printed by Order of the Legislature.

HARTFORD.
HAWLEY & FAXON, STATE PRINTERS.
1857.

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REPORT.

To the Honorable General Assembly of the State of Connecticut, now in session at Hartford, the undersigned have the honor to report :

THAT by a resolve of your Honorable Body, passed at the May Session, holden at Hartford, A. D. 1855, we were appointed, and subsequently duly commissioned by His Excellency the Governor of this State, Commissioners, to meet such Commissioners as might be appointed on the part of the State of New York, and with them, to ascertain the boundary line between this State and the State of New York, and erect suitable monuments at such places as might be deemed necessary to prevent any future mistake regarding the same.

That in April, A. D. 1856, the Legislature of the State of New York, by a concurrent resolution, authorized the Governor of that State to appoint three Commissioners, to be by him duly commissioned, to meet the undersigned for the purposes aforesaid, and soon thereafter, His Excellency the Governor of the State of New York, forwarded to each of the undersigned a copy of said concurrent resolution, accompanied with a notice, of which the following is a copy :

“STATE OF NEW YORK.

“EXECUTIVE DEPARTMENT, }
 “Albany, April 9th, 1856. }

“In pursuance of the foregoing Concurrent Resolution, I hereby appoint Hon. Ben Field, of Orleans County, Hon. Samuel D. Backus, of King’s County, and Col. Jonathan

Tarbell, of Essex County, to be Commissioners on the part of this State, to act with the Commissioners appointed by the State of Connecticut, to ascertain and settle the boundary line between the respective States, as specified in said Resolution.

MYRON H. CLARK."

That preparatory to a proper understanding of the duties of our Commission, we examined many ancient documents relating to the western boundary of this State, but we deem it unnecessary in this Report, to give the details of the many controversies regarding this line in the early settlement of our country, or to discuss the justice of the policy heretofore pursued by this State regarding that boundary. It is sufficient for a right comprehension of our powers, and the manner in which we have endeavored to faithfully discharge the duties of our Commission, to allude only to an agreement, made and concluded at Greenwich, in the Colony of Connecticut, on the 29th day of April, 1725, by a Joint Commission on the part of the Province of New York and the said Colony, and the manner in which that agreement was subsequently executed, and carried into effect.

That agreement appears at length in the appendix of the printed Resolves and Private Laws, published by authority of the General Assembly of this State, in May, A. D. 1835, as well as upon the Colonial Records, and appears to have been predicated upon a previous agreement and partial survey made in the year 1684. From those documents, and from the Reports of the Commissioners who run the boundary line under those agreements, which are also at length on the pages of said appendix, we collate the following facts:

By the agreement of 1684, the general course of Byram River, from "Lyon's Point," where said river empties into Long Island Sound, to a large stone at the country road, or "wading place," in said river, thence on a straight line north, north-west six miles and a half, to "three oak trees," was established as the partition line between the said Province and Colony thus far, and then the partition line was to run parallel with the sound a straight course "East North-East"

until the east end of said east north-east line should be twenty miles from the Hudson's River, and from that point to run parallel with the said Hudson's River to the southern line of Massachusetts.

By the agreement of April 9th, 1725, stipulations were entered into for determining the line as set forth in the agreement of 1684, and then it was further agreed, that having satisfactorily determined that line, there should be added to the province of New York sixty-one thousand four hundred and forty acres of land out of the Colony of Connecticut, by a parallel line, with the said line running parallel with the Hudson River, commencing at the end of said east north-east line twenty miles from said river, and running to Massachusetts boundary.

Pursuant to this last agreement, and immediately thereafter, the Commissioners and surveyors of the Province of New York and Colony of Connecticut, surveyed from Lyon's Point to said "Great Stone," and from thence to the "three trees," for the purpose of determining the allowance to be made in measuring the width of said additional land, agreeable to said agreement, and they found and determined there should be allowed an additional measure, at the rate of twenty-five rods to one mile, so that in measuring said width, one mile and twenty-five rods of actual measure on the surface of the earth should be accounted and esteemed one mile and no more, and so in proportion for a longer or shorter length. These Commissioners found no difficulty in satisfying themselves as to the identical "three Oak Trees" marked by the Commissioners in 1684, and the better to perpetuate the place, they say, in their Report, "At the place where the three white oak trees stand we buried some burnt wood in the ground and raised a heap of stones over it; we likewise cut the letters G. R. on a great stone lying in the ground there." They then ascertained the distance of that point from the Hudson River, and run a straight line east north-east thirteen miles and sixty-four rods,—the distance they found necessary to make up the whole distance of twenty miles from the Hudson River, and raised a heap of

stones there, and they determined and declared, that the straight line from said "great stone at the wading place," to the said "great stone" marked G. R., and from thence a straight line to said heap of stones at the end of the said east north-east line of thirteen miles and sixty-four rods is, and shall be, esteemed and fixed as the line of partition, so far between the Province of New York and Colony of Connecticut. They also declare that the said "heap of stones" shall be esteemed twenty miles from Hudson's River, according to the survey made in 1684, and the place from whence the additional land of sixty-one thousand four hundred and forty acres to be taken out of Connecticut shall commence. And the said east north-east line to be continued so far as to make up that number of acres, with the allowance of measure before mentioned.

At this point, the commissioners, at that time, closed their work.

In May, 1731, another Board of Commissioners and surveyors assembled to complete the survey, agreeable to the agreement of April 29th, 1725, left unfinished by the Commissioners in May, 1725. They run out from Hudson's River, at Courtland's Point, at a right angle with the river, the distance of twenty miles, and then they connected that point with the "heap of stones," at the end of said east north-east line, placed by the Commissioners, in the year 1725, by a straight line, and found its course to be north twenty-four and a half degrees west, and distance, (corrected measure,) "six miles, three quarters of a mile, and seventy-six rods." They then fixed a point in the Massachusetts line, twenty miles from the Hudson River, and run a straight line to said point, twenty miles from Courtland's Point, and found the course north, twelve and a half east, "nearly," and distance "fifty miles, three quarters of a mile, ten rods and fifteen links," corrected measure. They then set off a line parallel with these two lines, at a distance of one mile, three quarters of a mile, and twenty-one rods, strict measure, (but being only 432 rods, with the allowance of measure as aforesaid,) to embrace the 61,440 acres of land to be added to the Prov-

ince of New York, out of the Colony of Connecticut, and such a parallel line will embrace said quantity of land, and no more.

The north-east bound, at the Massachusetts line, the bound opposite to Courtland's Point, and the bound at the south-east angle of said additional land, are all well described in the report of the Commissioners of May the 14th, 1731, and they declare by said report that the said lines running north twenty-four and a half degrees west, and north twelve and a half degrees east, "nearly," are to be considered and esteemed as parallel to Hudson's River, and as twenty miles distance from the same. And that the east lines of said additional lands are *parallel* with the said lines running parallel with Hudson's river, and "to be and remain henceforth the lines of partition between the Province of New York and Colony of Connecticut, forever," and the report adds, "which lines, together with those that were fixed and established in the year 1725, do every where completely and entirely separate and divide the said Province from the said Colony, from the sound so far as the line of the Massachusetts Bay."

In accordance with previous arrangements, on the 3d day of June, 1856, the undersigned met the gentlemen named by his Excellency Governor Clark, as Commissioners, on the part of the State of New York, at Portchester, in the county of Westchester, for preliminary consultation, which resulted in the understanding that they would select their own surveyor, and that Mr. Holly, one of the undersigned, being himself a practical surveyor, would superintend the work, on the part of Connecticut, and the 23d day of the same month was fixed upon as the day to commence the survey.

On the 23d day of June last, we returned to Portchester, taking with us Andrew Perry, Esq., of Stamford, as an assistant, and on the 24th, the three commissioners on the part of the State of New York, met us, accompanied by a Mr. Wentz, as a surveyor, with two assistant surveyors, and two or three other assistants, of their own selection, from various parts of the State of New York.

On consultation and examination of facts, we had no hes-

itancy in at once establishing the center of the general course of Byram river, from its mouth at "Lyon's Point," to the bridge at the country road, as the true jurisdictional line between our respective States, and subsequently made an accurate survey of said river, fixing witness bounds on each shore thereof, to designate the said central lines, and their angles, so that in future no misunderstanding in regard to the same can well be made. And we had as little difficulty in determining that a large rock on the north side, and near the eastern terminus of said bridge, was the "great stone," "at the wading place," described by the Commissioners in 1725. We then proceeded to the present north-west corner of the town of Greenwich, in this State, where we found a stone lying in the ground, on the west side of a public highway, nearly opposite the residence of a Mr. Langdon, and on a careful examination of this stone we discovered the letters "G. R." upon one of its sides, bearing unmistakable appearances of having been chiseled some great length of time past. On removing the earth from about this stone, we also found the semblance of charcoal or "burnt wood." These two facts, taken with traditional evidence elicited, the Commissioners were fully satisfied, that this stone was the one marked by the Commissioners in 1725. We therefore run a straight line from the said large rock, at Byram bridge, to said stone, and found the course by magnetic needle, (applying the proper equation for the variation,) and the distance to agree very accurately with the survey of 1725. But from the lapse of time, the clearing up of the country, and the opening of highways, the intermediate bounds mentioned in the report of the Commissioners of May 12, 1725, have become entirely obliterated, and traditionary evidence in regard to their former locality, vague and uncertain. Hence, notwithstanding this straight line ran generally to the eastward of the line, as it has been of late years regarded by the residents along the line, in many places forming the western boundary of Greenwich Farms, and changing some residents from the jurisdiction of Connecticut to that of New York, the undersigned submitted to the claims of the Commission-

ers on the part of that State, that we could rely only upon the angle bounds, when well defined by record, and establish a straight jurisdictional line between them, it being mutually understood and agreed, that such a straight jurisdictional line, from angle bound to angle bound, should in no wise affect or vary the title to lands on or near said line, but the same to be holden and remain as if the said line by us established had not been run, and that we should make provision for this in a joint report to our respective Legislatures.

This principle of a straight jurisdictional line having thus been settled, and as we supposed would be carried out in good faith, throughout the whole survey, on the part of the Commissioners for the State of New York, we committed the entire control of running the line, to their surveyors, especially as the acting Commissioner assured us in writing, over his signature, that on the part of New York, they only desired "a perfect survey," that "no territory was in dispute," that "Mr. Wentz (we quote his own words,) was the first engineer in the State," and "we hired him expressly to run a line that no future surveyor could ever break down." In accordance with this understanding, after the true line was ascertained by a transit instrument, the surveyors went over the line again, and fixed points for erecting monuments along the line, thus far, at every crossing of a highway, and subsequently, one of the Commissioners on the part of New York, ordered monuments of gray granite stone, five feet in length, one foot in width, and six inches thick, with the letters "N. Y." handsomely cut on one side, and "Ct." on the reverse, from the quarries of New Milford; had them distributed along the line, and one has been erected at each point thus marked by their surveyor, eight in number, by being set three feet and a half in the ground, in the most substantial manner.

From the angle at the rock marked "Gt. R." on the course indicated in the report of the Commissioners of 1725, (variations of the needle considered) and at the distance of thirteen miles and sixty-four rods, nearly reaches the present regarded south-west corner of the town of Lewisboro', in the county

of Westchester, where are found a heap of stones on the south side of a highway, near an old stump, by the fence, and which seemed to be indicated by the make of the land, and distance as described in said report, and confirmed by traditionary evidence, as the bound established by the Commissioners of 1725, as where the line was to be extended from, to embrace the additional lands, and as being twenty miles from Hudson's River. No intermediate bound, as described in the report of 1725, were recognizable along this line, but it ran through a traditionary bound on the north line of Greenwich, and also through the received and acknowledged north-west corner bound of the town of Stamford, and a traditionary bound near the north-west corner of the town of New Canaan, and in all other places, ran with or very near traditionary lines. On this line also, monuments ordered by the New York Commissioners, (of the same character as those already described) have been erected at every crossing of a highway and other prominent points along the line—sixteen in number.

On extending this last mentioned line, the distance required to embrace the additional lands, one mile, three-quarters of a mile, and twenty-one rods, strict measure, as per said agreement of 1725, the eastern end fell about ten rods north of an ancient bound in a piece of woods on the west side of a stony ridge near the west base of Bald Hill, two hundred and sixty-three rods from the west branch of the Norwalk river, as described in the report of the Commissioners of May 14, 1731. This bound being well defined by that report, and permanently established, together with traditionary evidence and its antiquated appearance, the present Commissioners had no difficulty in deciding upon this as the true bound. The cause of this bound not having been erected in a true line with the line westerly of the bound at the end of the twenty miles from the Hudson river, may be accounted for upon the supposition that the surveyors in 1731, in extending that line, made no allowance in running the course, for the difference of the variations of the magnetic needle between the years 1725 and 1731; but from all the circum-

stances, the present commissioners did not feel warranted in disturbing this ancient land-mark, although it stands some ten rods south of the line contemplated in the agreement of 1725, and cutting a slice out of the territory of Connecticut, and we agreed to that as the true bound, and the jurisdictional line, to be a straight line from it to the said bound at the south-west corner of Lewisboro', before mentioned.

The next angle to establish was the one described in the report of 1731, opposite to Courtland's Point, at the south-eastern extremity of Long Pond. Only one of the Commissioners on the part of New York had been present for many days, and as there was some discrepancy in traditionary evidence, we complained to the Commissioner present that we were deprived of the counsel of his associates. But he frankly declared that his associates not being practical men, it was of little or no consequence whether they were present or not, and as they had committed the running of the line to Mr. Wentz, they would be governed and bound by his decisions and acts, so far as bounds and the survey of the line was concerned. We then submitted to their claim, and the line was accordingly run, and points fixed at the crossing of every public road, as on the other lines, the course and distance not varying materially from the survey of 1731.

From the angle bound at Long Pond, as before mentioned, the surveyors run a straight line to a monument, at the southern boundary line of Massachusetts, in the Tahconic mountains—a monument unmistakably described in the report of the commissioners of 1731, as the one they established as the north-east corner of said additional lands—the distance and course again very accurately agreeing with the survey of that year.

In running this last said line, a distance of over fifty miles, the attention of the Commissioners or surveyors was not called to any intermediate bounds whatever. And on becoming satisfied as to the identity of the said monument in the Tahconic mountain, the Commissioners on the part of New York suggested that a marble monument should be erected at that point, commemorative of this survey, and a

few days afterwards, Mr. Backus wrote to Mr. Whiting, giving directions as to the inscriptions he desired to be engraven upon said monument.

The surveyors run over this line the second time, and under the special directions of Mr. Wentz, (the Commissioners on the part of New York having left the line after deciding in regard to the monument in said Tahconic mountains,) fixed points for monuments along the line, wherever it crossed public highways, and on all the intermediate points of high land, where it was deemed necessary to make the line so distinct that in future there could be no misapprehension in regard to it by any one. This was completed on the first day of November last, and the surveying party disbanded.

The undersigned congratulated each other at the final consummation of the survey, which had been, in their judgment, greatly retarded, and subjected to much unnecessary expense, by circumstances altogether beyond their control, and entertained no thought but that the Commissioners on the part of New York were perfectly satisfied that a true jurisdictional line had been completed, and that all that remained to be done, was to set the monuments, where they had not already been erected, and unite in a report of our doings to our respective Legislatures.

That the Commissioners on the part of New York so considered the line as settled, at the close of the survey, we were justified in believing, not only from the honorable position they had been placed in by the Executive of that State, which demanded our confidence in them as gentlemen, who would not depart from agreements because such agreements had not been submitted to writing, but also from their subsequent acts. On the 28th day of October, one of them wrote Mr. Whiting regarding the monument to be set in the Tahconic mountains; they arranged on the day they left the line, with Mr. Perry, our assistant surveyor, to superintend the setting of the remainder of the monuments, which they had already ordered to be made and delivered at New Milford railroad depot, similar in style to those herein before described; they proclaimed along the line, that the line as run

by Mr. Wentz, was the true jurisdictional line ; and on the 3d day of November, three days after the surveying corps had been discharged, Mr. Backus wrote to Mr. Whiting, requesting him to meet the Commissioners at Stamford on the following Thursday, in which he says : " We name that time and place as most convenient for us all, and it is important that whatever business we may have to do before setting the monuments, should be done at once, in order that frost may not interfere with the work. Mr. Perry had also better be present."

With the exception of Mr. Field, the Commissioners met at Stamford in accordance, with that request. But it was a very brief meeting. They made a demand upon the undersigned, having no bearing whatever upon the jurisdictional line, which we declined to entertain until the work was finished. We decidedly informed the gentlemen that we were perfectly satisfied with the line as they and their surveyors had established it, and that as soon as the remainder of the monuments were set, we should be happy to meet them at any convenient place and close up other matters as amicably as we had agreed in running the line. They then demurred to proceeding any further, until we complied with their demand, which we considered a very unreasonable one, and entirely contrary to our original understanding, and they left, without any decision as to who should finish up the work. We proposed for them to go on and set the monuments, or if they would so consent, we would take the burden. But no, they must have their own way, as they had done from the commencement of the work, or no way at all, and thus we separated.

Before leaving the place, they notified Mr. Perry that his services were not wanted in setting the monuments, and on the 15th of November, Col. Tarbell placed in our hands individually, without a word of explanation, a notice of the following tenor, subscribed " Samuel D. Backus," " J. Tarbell," " Commissioners on the part of the State of New York."

“ GENTLEMEN :

“ All communications and propositions, oral or written, from us or either of us, to you for the settlement of said line, are respectfully withdrawn ; we take this step in good faith, and as necessary and proper under all the circumstances. Permit us to add that we shall take pleasure in a prompt reopening of negotiations, and will make full, and we have no doubt satisfactory explanations for this step.”

Language can not adequately express the surprise of the undersigned on perusing this brief document, neither could they well comprehend its meaning. Mr. Holly was at the very time engaged in preparing a topographical sketch of the whole line, to accompany our report, the outlines of which have been finished, but he did not feel justified in incurring the expense of a transfer to a proper shape for preservation, if the whole work of the expensive survey that had been made, was thus to be crushed out by the gentlemen on the part of New York, and rendered nothing worth. These gentlemen have not subsequently made us any explanation for thus recalling all their agreements, neither have they ever named a time or place requesting us to meet them to “re-open negotiations,” although they have solicited us to name a time and place for an interview. In reply to their solicitations we notified them that we were not aware of any disagreement or uncertainty in regard to the line as it was run—that we most cheerfully assented to the line as they had marked it out, that Mr. Holly had reviewed every point, and was satisfied the work was correctly accomplished, and that as soon as they would unite with us in erecting the remainder of the monuments, we should be happy to meet them at the place of their own selection to close up the business of our joint Commissions. But nothing further has been jointly accomplished.

The undersigned have been thus particular in regard to matters that, perhaps, might otherwise have been omitted in this report, but from the fact that we have noticed in the public prints, that on the afternoon of the 13th day of April, 1857, only four days before the close of the session, the

Boundary question was reported upon by a select committee of the Legislature of New York, accompanied with the following resolutions :—

Resolved, That the Commissioners on the part of New York, while they have maintained the rights of this State, by declining to yield any of its territories, or to adopt any other than the legal and recognized boundary through the ancient land-marks, have not been lacking in liberality towards the Commissioners on the part of Connecticut, nor in a popular effort for a just and speedy determination of the matters of difference between them, nor are they to be held responsible for the failure of a settlement hitherto.”

Resolved, That relying upon the Legislature of Connecticut to correct the errors of its Commissioners, we deem no legislation necessary on the part of this State, in relation to this subject at the present time.”

From the tenor of these resolutions, the undersigned are constrained to believe the Legislature of New York has been misled in relation to facts by an *exparte* report, at a period of the session too late to entertain any counter statement, and we can not but hope and believe, that, should your honorable body devise some proper means to bring this subject under the review of our sister State, justice and truth in relation to this subject will yet be honored, and that ultimately the line, as run by the intelligent and efficient engineer on the part of the State of New York, will be established as the true jurisdictional line between the two States.

All which is respectfully submitted,

WM. H. HOLLY, }
JASON WHITING, } *Commissioners.*

HARTFORD, May 19th, 1857.

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